

1 MARLENE G. WEINSTEIN
2 Chapter 7 Trustee
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5 Chapter 7 Trustee

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8 UNITED STATES BANKRUPTCY COURT

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NORTHERN DISTRICT OF CALIFORNIA

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11 **In re**

12 **FARAJOLLAH JENNATI ATAIE**
13 **and FARZANEH ATAIE,**

14 **Debtor(s).**

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16 **Case No. 16-41815 RLE**

17 **Chapter 7**

18 **TRUSTEE'S OBJECTIONS TO**
19 **DEBTORS' CLAIMS OF EXEMPT**
20 **PROPERTY**

21 Marlene Weinstein, Chapter 7 trustee for the above-captioned
22 estate ("Trustee"), hereby objects to Debtors' claims of exempt
23 property set forth on Schedule C filed June 29, 20165, with respect
24 to the asset(s) described by Debtors and claimed exempt as follows:

- 25 1. "Cash on hand" in the amount of \$40.00 claimed exempt in
26 that amount pursuant to C.C.P. §706.051;
- 27 2. "Checking account; Patelco Credit Union; xx4227" in the
28 amount of \$5,200.00 claimed exempt in that amount and/or
in any amount pursuant to C.C.P. §706.051;
3. "Checking account; JP Morgan Chase Bank, N.A; xx0817" in
the amount of \$5.00 claimed exempt in that amount and/or
in any amount pursuant to C.C.P. §706.051;

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4. "Checking account; JP Morgan Chase Bank, N.A; xx3515" for any amount pursuant to C.C.P. §706.051; and,
5. "Contra Costa Health Department; pro rated refund for cancelled business license" in the amount of \$400.00 claimed exempt in that amount and/or in any amount pursuant to C.C.P. §706.051.

The Trustee objects to debtors' claims that any and/or all of the foregoing assets are exempt based upon the Trustee's contention that C.C.P. §706.051 relates to a restriction on an earnings withholding order and the debtors' disposable earnings, and specifically to the earnings of an employee. In that regard, C.C.P. §706.011(b) defines "Earnings" as "compensation payable by an employer to an employee for period services performed by such employee, whether denominated as wages, salary, commission, bonus, or otherwise." The Trustee contends that none of the foregoing assets are "earnings" as that term is defined. In fact, the Trustee is informed and believes that all, or virtually all of the foregoing assets are from operation of the debtors' business and/or from a \$10,000 buyout of their lease of the business premises.

20 No hearing is requested at this time. The Trustee will
21 request a hearing and provide notice as required under Local
22 Bankruptcy Rule 7-914(b)(1) as is appropriate upon further
23 examination and investigation of the Debtor's assets, or will
24 withdraw her objection to any and all of the above upon agreement
25 of the parties and/or further order of the Court.

26 Dated: September 20, 2016 Respectfully submitted,

/s/ Marlene G. Weinstein
MARLENE G. WEINSTEIN
Chapter 7 Trustee

CERTIFICATE OF SERVICE

I, the undersigned, declare:

I am employed in the County of Contra Costa, State of California. My business address is 1511 Sycamore Ave. Suite M-259, Hercules, California 94547. I am readily familiar with the office business practices for the collection and processing of correspondence for mailing with the United States Postal Service and that correspondence is deposited with the United States Postal Service that same day in the ordinary course of business.

On September 20, 2016, I served the following document(s):
TRUSTEE'S OBJECTIONS TO DEBTORS' CLAIMS OF EXEMPT PROPERTY AND CERTIFICATE OF SERVICE

on each party listed below in the manner or manners described below and addressed as follows:

Farajollah Jennati Ataie
3226 Ensenada Drive
San Ramon, CA 94583

Farzaneh Ataie
3226 Ensenada Drive
San Ramon, CA 94583

14 Scott Jordan, Esq.
15 Dunning Law Firm
16 2000 Van Ness Ave., Suite 602
San Francisco, CA 94109

X BY FIRST CLASS MAIL: by placing said document(s) listed above in a sealed envelope with postage fully prepaid, for collection and mailing at my employer's office following ordinary business practices, addressed to the addressee(s) designated as set forth above.

X BY ECF EMAIL NOTIFICATION: by way of the court's ECF email notification to the participating parties set forth below.

Scott Jordan, Esq.
Dunning Law Firm
2000 Van Ness Ave., Suite 602
San Francisco, CA 94109

United States Trustee
Federal Bldg. and U.S. Courthouse
450 Golden Gate Ave., 5th Floor,
Suite #05-0153
San Francisco, CA 94120

I declare under penalty of perjury that the foregoing is true and correct. Executed this on September 20, 2016, at Hercules, California.

/s/ Marlene G. Weinstein
Marlene G. Weinstein